

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

WINFRED RAY RANDALL	§	
v.	§	CIVIL ACTION NO. 6:06cv404
DIRECTOR, TDCJ-CID	§	

MEMORANDUM ADOPTING REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE
AND ENTERING FINAL JUDGMENT

The Petitioner Winfred Ray Randall, proceeding *pro se*, filed this application for the writ of habeas corpus under 28 U.S.C. §2254 complaining of the legality of his conviction. This Court ordered that the case be referred to the United States Magistrate Judge pursuant to 28 U.S.C. §636(b)(1) and (3) and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to United States Magistrate Judges.

Randall stated that he was convicted of robbery in March 26, 1990, receiving a sentence of 25 years in prison. He did not take a direct appeal, but sought habeas corpus relief on two different occasions in state court, with his petitions being denied in August of 2000 and November of 2005. He said that some of the issues in his first state petition were not adjudicated by the court and that his second petition raised issues of which he could not have known earlier, including a breach of the plea agreement and the lack of proper admonishments.

After review of the pleadings, the Magistrate Judge issued a Report on September 22, 2006, recommending that the petition be dismissed with prejudice based upon the expiration of the statute of limitations. The Magistrate Judge also recommended that Randall be denied a certificate of appealability. Randall received a copy of the Magistrate Judge's Report on September 26, 2006, but filed no objections thereto; accordingly, he is barred from *de novo* review by the district judge of those findings, conclusions, and recommendations and, except upon grounds of plain error, from

appellate review of the unobjected-to factual findings and legal conclusions accepted and adopted by the district court. Douglass v. United Services Automobile Association, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*).

The Court has reviewed the pleadings in this cause and the Report of the Magistrate Judge. Upon such review, the Court has determined that the Magistrate Judge's Report is correct. It is accordingly

ORDERED that the Report of the Magistrate Judge is ADOPTED as the opinion of the District Court. It is further

ORDERED that the above-styled application for the writ of habeas corpus is DISMISSED with prejudice. It is further

ORDERED that the Petitioner Winfred Ray Randall is denied a certificate of appealability *sua sponte*. Finally, it is

ORDERED that any and all motions which may be pending in this action are hereby DENIED.

So ORDERED and SIGNED this 20th day of October, 2006.

A handwritten signature in black ink, appearing to read 'Leonard Davis', written over a horizontal line.

**LEONARD DAVIS
UNITED STATES DISTRICT JUDGE**